Canadian Human Rights Tribunal

2012–2013

Report on Plans and Priorities

The original version was signed by
The Honourable Robert Douglas Nicholson
Minister of Justice and Attorney General of Canada

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Chairperson's Message

I am pleased to present the Canadian Human Rights Tribunal's Report on Plans and Priorities for 2012–2013. The Tribunal is the administrative body that hears complaints of discrimination in the federally regulated sphere that have been referred to it by the Canadian Human Rights Commission.

When hearings proceed, they are conducted openly, fairly and transparently. The Tribunal assesses evidence and issues rulings and decisions intended to inform the parties and Canadians at large about the *Canadian Human Rights Act* as it applies to specific facts that arise in complaints. The Tribunal's goal is to foster access to speedy, open, fair and transparent hearings and to provide just, concise and well-reasoned rulings and decisions on complaints of discrimination and employment inequity.

The Tribunal's incoming caseload has remained fairly constant in the last couple of years with an average annual intake of 100 cases. The number of active case files at the end of March 31, 2012, was 312.Of the files received in the last two years, 191 are related to a complex case of age discrimination and are currently under consideration or awaiting results of judicial review applications and appeals before the Federal Court. As well, in 50 of the new cases in 2011–2012 the parties agreed to pursue mediation; 18 have been settled and 21 are postponed or ongoing. The Tribunal's priority in 2012–2013 will be to continue its efforts to reduce the number of outstanding complaints using the customized mediation process and to improve the timeliness of Tribunal decisions.

In 2011–2012, the Chairperson continued to work closely with stakeholders to seek their input and ideas on ways to make the Tribunal's processes simpler and faster to access while ensuring that they are still fair. In addition, as individuals could file complaints of discrimination arising out of actions or decisions made pursuant to the *Indian Act*, the Chair engaged First Nations communities. We will continue to work closely with all stakeholders as the Tribunal moves forward with efforts to efficiently and fairly administer operations and improve its processes and practices.

The Tribunal also remains committed to pursuing initiatives aimed at further improving its management practices while at the same time exploring cost-effective solutions for the delivery of its internal services. Its focus on ensuring optimal resource allocation will continue to guide its work in 2012–2013 and beyond.

The original version was signed by
Susheel Gupta
Vice-Chairperson

Section I: Organizational Overview

Raison d'être

The Canadian Human Rights Tribunal is a quasi-judicial body that hears complaints of discrimination referred by the Canadian Human Rights Commission and determines whether the activities complained of violate the *Canadian Human Rights Act* (CHRA). The purpose of the CHRA is to protect individuals from discrimination and to promote equal opportunity. The Tribunal also decides cases brought under the *Employment Equity Act* (EEA) and, pursuant to section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

Roles and Responsibilities

In hearing complaints under the CHRA and the EEA, the Canadian Human Rights Tribunal considers matters concerning employment or the provision of goods, services, facilities or accommodation. The CHRA makes it an offence for a federally regulated employer or service provider to discriminate against an individual or group on any of the following grounds:

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (includes pay equity, pregnancy, childbirth and harassment, although harassment can apply to all grounds);
- marital status;
- family status;
- sexual orientation;
- disability (can be mental or physical, and includes disfigurement and past, existing or perceived alcohol or drug dependence);
- conviction for which a pardon has been granted.

The Tribunal's jurisdiction covers matters that come within the legislative authority of the Parliament of Canada, including those concerning federal government departments and agencies, as well as banks, airlines and other federally regulated employers, and providers of goods, services, facilities and accommodation. The Tribunal holds public hearings to inquire into complaints of discrimination. Based on evidence and the law (often conflicting and complex), it determines whether discrimination has occurred. If it makes a finding of discrimination, the Tribunal determines the appropriate remedy to compensate the victim of the discriminatory practice, as well as policy adjustments necessary to prevent future discrimination.

The majority of discriminatory acts that the Tribunal adjudicates are not malicious. Many conflicts arise from long-standing practices, legitimate concerns of employers, or conflicting interpretations of statutes and precedents. The role of the Tribunal is to discern the positions of the parties and to establish fair and appropriate rules to resolve the dispute.

The Tribunal may inquire only into complaints under the CHRA that are referred to it by the Canadian Human Rights Commission, usually after a full investigation by the Commission. The Commission resolves most cases without the Tribunal's intervention. Cases referred to the Tribunal generally involve complicated legal issues, new human rights issues, unexplored areas of discrimination or multi-faceted evidentiary complaints that must be heard under oath, especially in cases with conflicting evidence that involve issues of credibility.

The Tribunal is not an advocate for the CHRA; that is the role of the Commission. The Tribunal has a statutory mandate to apply the Act based solely on the evidence presented and on current case law. If there is no evidence to support an allegation, then the Tribunal must dismiss the complaint.

The Tribunal reports to Parliament through the Minister of Justice.

Organizational Structure

The Canadian Human Rights Tribunal is a small, permanent quasi-judicial organization comprising a full-time Chairperson and Vice-Chairperson, and up to 13 full- or part-time members. The Chairperson is the chief executive officer of the Tribunal and is supported by the Executive Director and Senior Registrar who is responsible for registry operations and internal services.

Members — To be eligible for appointment by the Governor in Council, Tribunal members must have experience, expertise, interest in and sensitivity to human rights. Under the CHRA, both the Chairperson and the Vice-Chairperson must have been a member of the bar for more than 10 years. Terms of office are up to five years for the 13 full- or part-time members and up to seven years for the Chairperson and Vice-Chairperson.

Registry Operations — Registry operations plan and arrange hearings, act as liaison between the parties and Tribunal members, and provide administrative support to members.

Internal Services — Internal services are activities and resources that support the needs of the Tribunal's operating program and other corporate obligations. They include corporate, legal, financial, human resources, and information management and technology services.

Strategic Outcome and Program Activity Architecture

The Tribunal has one strategic outcome:

> Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Tribunal.

Two program activities support achievement of the strategic outcome: (1) Hearings of complaints before the Tribunal; and (2) Internal Services.

Organizational Priorities

Priority	Type[1]	Strategic Outcome and Program Activity
Encourage and support parties in mediation activities	Ongoing	This priority is linked to our sole strategic outcome: Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Tribunal. and directly linked to our main program activity: Hearings of complaints before the Tribunal

Description

Why is this a priority?

Objective and professional members conduct mediation activities to reach resolution in less time and cost, which promotes fairness and equitable treatment of parties.

Plans for meeting the priority

Implementation of the expedited complaints resolution process with a focus on mediation activities.

[1] Type is defined as follows: **previously committed to**—committed to in the first or second fiscal year prior to the subject year of the report; **ongoing**—committed to at least three fiscal years prior to the subject year of the report; and **new**—newly committed to in the reporting year of the RPP or DPR.

Priority	Type	Strategic Outcome and Program Activity
Conduct hearings efficiently and issue decisions on a timely basis	Ongoing	This priority is linked to our sole strategic outcome: Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Tribunal. and directly linked to our main program activity: Hearings of complaints before the Tribunal

Description

Why is this a priority?

A transparent and efficient adjudication process ensures a structured and objective approach that is consistent with the principles of justice. Parties to the hearing require decisions on a timely basis to bring closure to the matter.

Plans for meeting the priority

Continued implementation of the expedited complaints resolution process, including using pre-hearing conferences to narrow issues and improve common understandings.

To contribute to efficiency, the Tribunal publishes its rules and procedures online.

Priority	Type	Strategic Outcome and Program Activity
Streamline Internal Services	Ongoing	Internal Services support all the activities related to our strategic outcome and main program activity.

Description

Why is this a priority?

The ability to embrace and explore cost-effective solutions for providing back-office services is essential to the Tribunal's ability to achieve its strategic outcome economically, efficiently and effectively.

Plans for meeting the priority

The Tribunal will actively pursue and evaluate the possibility of outsourcing some of its back-office functions to another small agency, thus maximizing available resources.

Risk Analysis

The Tribunal is a low-risk agency. Financially, approximately 60% of its $4.5 million operating budget is for salaries and benefits. Of the remaining $1.8 million in Operations and Maintenance (O&M), 40% is directly related to the adjudicative process such as per diem costs for part-time members, travel, facility rentals for hearings and mediation activities and translations of decisions and rulings. The Tribunal adheres to Treasury Board policies for the expenditure of its O&M budget.

Operating Environment — The Tribunal has an ongoing planning challenge in that the Tribunal's sole function is to respond to the matters referred to it by the Canadian Human Rights Commission. As such, the Tribunal's operational activities are driven by external demands that it can only react to rather than plan for. A significant increase in the number of complex matters would severely affect the Tribunal's ability to meet its strategic outcome.

Unpredictable Workload — The repeal of Section 67 of the CHRA, which came into force in June 2011, extended human rights protection to individuals who were formerly unable to avail themselves of these protections. Decisions made or actions taken by band councils and the federal government under the *Indian Act* were, until recently, exempt from the application of the CHRA. Complaints that used to be filed with the Minister of Indian Affairs and Northern Development pursuant to the *Indian Act* will now come before the Canadian Human Rights Commission. The Tribunal expects that the Commission will refer some of these specific complaints to it but cannot at this time predict how many. Moreover, some of the cases referred to the Tribunal are likely to be complex since they will be exploring new areas of human rights law, requiring additional time and resources for research, mediation, hearings and decisions.

Adequate Resources to Conduct Timely Mediations/Hearings — Currently, the Tribunal is managing its caseload and conducting mediations and hearings within a reasonably responsive timeframe. However, the Tribunal does not have enough resources to avoid incurring a backlog of complaints. In addition, with the expectation that demand for hearings will increase because of the CHRA amendments that came into force in June 2011, the Tribunal will either have to seek additional resources or delay hearings until resources become available. This matter will be carefully monitored throughout the year.

Corporate Management — Like small departments and other micro-agencies, the Tribunal continually faces pressure to respond to, or implement various government-wide management initiatives. The Tribunal is continuing its work on several fronts, such as strengthening its accountability framework, implementing new policy requirements and developing measures to enhance the use of technology. The Tribunal will also continue to actively seek horizontal opportunities and interdepartmental partnerships to achieve efficiencies. The Tribunal believes this approach will mitigate the pressure caused by increased demands, while ensuring it continues to be well positioned to carry out its statutory mandate.

Planning Summary

Financial Resources ($ millions)

2012–13	2013–14	2014–15
4.5	4.5	4.5

Human Resources (Full-Time Equivalent—FTEs)

2012–13	2013–14	2014–15
26	26	26

Strategic Outcome: Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Tribunal.

Performance Indicators	Targets
Tribunal decisions	a) Conclude mediations/hearings within 12 months of the referral from the Commission in 70% of cases. b) Handing down decisions within four months of the conclusion of the hearing in 80% of cases.

Planning Summary Table

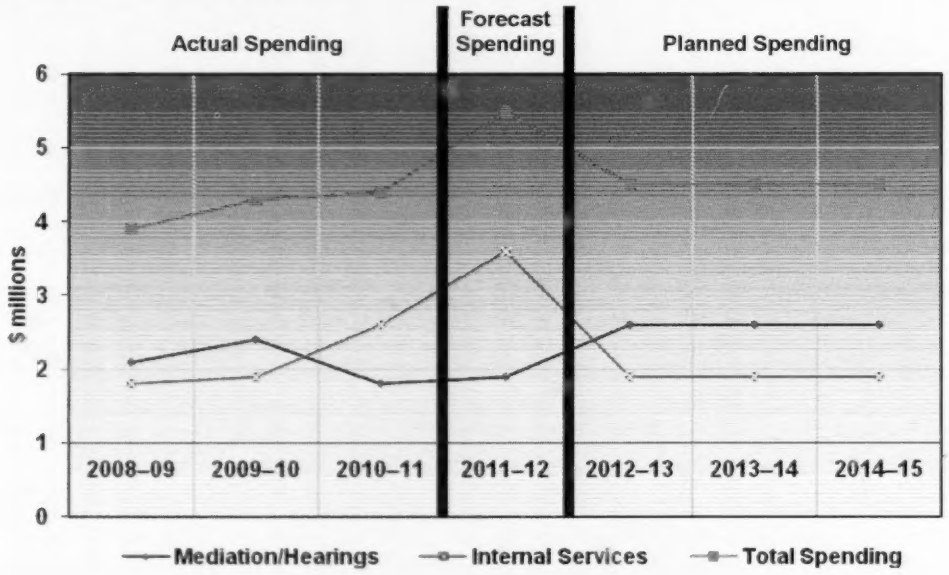
Program Activity	Forecast Spending 2011–12	Planned Spending			Alignment to Government of Canada Outcomes
		2012–13	2013–14	2014–15	
Hearings of complaints before the Tribunal	1.9	2.6	2.6	2.6	A diverse society that promotes linguistic duality and social inclusion
Total Planned Spending		2.6	2.6	2.6	

Planning Summary Table

Program Activity	Forecast Spending 2011–12	Planned Spending		
		2012–13	2013–14	2014–15
Internal Services	3.6	1.9	1.9	1.9
Total Planned Spending		1.9	1.9	1.9

Expenditure Profile

Departmental Spending Trend



The departmental spending trend graph shows the Tribunal's actual and planned spending for seven years, from the actual expenditures in 2008–2009 to the planned spending for fiscal year 2013–2014. The graph displays the trend lines for the Tribunal's two program activities, as well as the Tribunal's total expenditure and planned spending.

In 2011–2012, the Tribunal's actual expenditures were slightly higher than in 2010–2011 due to several extraordinary issues/events including the rehabilitation of its IT network and equipment following a deliberate and unauthorized attack on the Tribunal network; extraordinary litigation costs related to the settlement of a long-standing legal dispute; and professional services costs needed to address unprecedented labour relations issues. The forecast spending for 2012–2013 includes regular pay increases and other benefits adjustments prescribed by collective agreements and Treasury Board policies.

Estimates by Vote

For information on our organizational appropriations, please see the 2012–13 Main Estimates publication.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Tribunal.

Program Activity: Hearings of complaints by the Tribunal

Program Activity Description

This program inquires into complaints of discrimination to decide, following a hearing before Tribunal members, if particular practices have contravened the *Canadian Human Rights Act*. Tribunal members also conduct hearings into applications from the Canadian Human Rights Commission (CHRC) and requests from employers in order to adjudicate on decisions and directions given by the CHRC under the *Employment Equity Act*.

Financial Resources ($ millions)

2012–13	2013–14	2014–15
2.6	2.6	2.6

Human Resources (FTEs)

2012–13	2013–14	2014–15
13	13	13

Program Activity Expected Results	Performance Indicators	Targets
a) Access to mediation and adjudication processes that are transparent, timely and efficient. b) Reasoned and objective application of the CHRA and the EEA. c) Decisions that respond to complaints and provide guidance to employers and service providers within the federal sphere.	(i) The average time taken to initiate mediation or hearing.	(i) Initiate mediation or hearing process within 10 days of receiving the referral from the Commission in 90% of cases.
	(ii) Number of hearings.	(ii) n/a
	(iii) Percentage of cases commenced within target.	(iii) Commence mediation or hearing within six months of referral from the Commission in 70% of cases.
	(iv) Percentage of cases completed within target.	(iv) Conclude inquiries within12 months of referral from the Commission in 70% of cases.

	(v) Number of cases that go to mediation and number of cases resolved by mediation.	(v) No Target – Mediation requires the consent of both parties. The Tribunal makes best efforts to encourage parties to mediate rather than adjudicate a resolution.

Program Activity: Internal Services

Program Activity Description

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those activities and resources that apply across the organization and not to those provided specifically to a program.

Financial Resources ($ millions)

2012–13	2013–14	2014–15
1.9	1.9	1.9

Human Resources (FTEs)

2012–13	2013–14	2014–15
13	13	13

Planning Highlights

The Tribunal will continue to provide access to justice for ordinary Canadians through an expedited complaint resolution process. This expedited process involves intensive pre-hearing case management to narrow the issues of litigation and to abbreviate the hearings by focusing on facts in dispute. It also involves the use of *evaluative mediation*[2] as opposed to *interest-based mediation*[3] to resolve complaints.

The Tribunal will actively monitor its caseload of mediations and hearings to assess resource levels going forward. The purpose of this activity is also to collect and analyze performance indicator data, assess performance against stated targets and report this information in its annual Performance Report to Parliament. In addition, information and findings from the assessment

[2] Evaluative mediation is a process facilitated by a mediator to assess the relative strengths and weaknesses of each party's position and to determine likely results if the issue(s) between the parties were decided by a hearing.

[3] Interest-based mediation is a process facilitated by a mediator to establish each party's interests in the issues and develop a resolution that addresses, to the greatest degree possible, those interests so that the parties can commit to the resolution.

will be used to make informed adjustments to Registry operations or the rules and procedures of the Tribunal.

In support of the Greening Government Operations initiative, all staff and members will be encouraged to work electronically to reduce the demand for printed documents, in particular draft versions of reports, hearings, mediations and other information that is used internally prior to producing print-quality documents and reports.

Section III: Supplementary Information

Financial Highlights

Future-Oriented
Condensed Statement of Operations
For the Year (ended March 31)
($ millions)

	$ Change	Future-Oriented 2012–2013	Future-Oriented 2011–2012
Total Expenses	-1.0	5.7	6.7
Total Revenues		–	–
Net Cost of Operations	-1.0	5.7	6.7

Condensed Statement of Financial Position
(As of March 31)
($ millions)

	$ Change	Future-Oriented 2012–2013	Future-Oriented 2011–2012
Total assets	0	0.4	0.4
Total liabilities	+1.0	1.0	0.9
Equity	-1.0	(0.6)	(0.5)
Total	0	0.4	0.4

Future-Oriented Financial Statements

Further information concerning the Tribunal's financial statements can be found on the Tribunal's website.

Section IV: Other Items of Interest

For Further Information

Executive Director and Senior Registrar
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Legislation

The Minister of Justice is responsible to Parliament for the *Canadian Human Rights Act* (R.S. 1985, c. H-6, as amended).

The Minister of Labour is responsible to Parliament for the *Employment Equity Act* (S.C. 1995, c. 44, as amended).

Reports

The following documents can be found on the Tribunal's website:

Annual Reports

Performance Reports

Reports on Plans and Priorities